IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6173 OF 2007

Vishnu Rama Kirkira & ors.... Petitioner

versus

Anna Pilya Pardhi & ors..... Respondent.

Shri P.B.Shah for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 03RD SEPTEMBER, 2007

P.C.;

1. The present petitioners are Legal heirs of the original Plaintiff no.2 who expired during pendency of the suit. The plaintiff's suit is for partition of the joint family property. The plaintiff no.1 applied for bringing legal heirs of plaintiff no.2 on record and in addition the legal heirs also moved an application for joining them as party defendant. Though the trial court permitted the present petitioners to be brought on record as the legal heirs of plaintiff no.2 as plaintiff, the prayer made by the petitioners to implead them as defendants has been rejected. Hence this writ petition.

2. The petitioners by applying for being joined as legal heirs of deceased, would be prosecuting the suit

instituted by the predecessor in title of the petitioners. The predecessor in title of the petitioner having opted to file a suit for partition, the present petitioners, if they want to continue the same, will have to be joined as plaintiff. They cannot insist for being implead as defendants.

3. I do not see any illegality committed by the trial court much less requiring any interference by this court in exercise of writ jurisdiction. Hence writ petition is summarily dismissed.

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